

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBERT E. WERBICKY, *et al.*,
Plaintiffs,
vs.
GREEN TREE SERVICES, LLC, *et al.*,
Defendants.

Case No. 2:12-cv-01567-GMN-GWF

ORDER

Joint Stipulated Discovery Plan (#25)

This matter comes before the Court on the parties' proposed Discovery Plan (#25), filed on November 13, 2012. Currently pending before the District Court are Defendants' Motion to Dismiss (#6), filed on September 26, 2012, and Plaintiffs' Motion for Partial Summary Judgment (#14), filed on October 22, 2012. Plaintiffs propose that the parties submit their initial disclosures by November 27, 2012, and that the discovery cutoff be May 13, 2013 under Local Rule 26-1(e)(1), 180 (one hundred eighty) days after the parties' Rule 26(f) Conference. Defendants propose the parties serve their initial disclosures no later than 14 (fourteen) days after the District Court enters orders on the pending dispositive motions (#6, #14). The Court construes Defendants' proposal as a request to stay discovery pending decision on the dispositive motions.

A party seeking a stay of discovery carries the “heavy burden” of making a “strong showing” why discovery should be stayed. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975). The pendency of dispositive motions may justify a stay of discovery in a matter. See *Trzaska v. Int'l Game Technology*, 2011 WL 1233298 at *3 (D. Nev 2011). In such cases, courts take a “preliminary peek” at the merits of the dispositive motion “to see if on its face there appears to be an immediate and clear possibility that it will be granted.” *Id.*; see also *Ameritel Inns v. Mofat*

Bros. Plastering, 2007 WL 1792323 (D. Idaho 2007). Where the pending dispositive motion is a motion to dismiss under Rule 12(b)(6), a court may stay discovery if “it is convinced that the plaintiff will be unable to state a claim for relief.” *Turner Broadcasting System, Inc. V. Tracinda Corp.*, 175 F.R.d. 554, 555-56 (D. Nev. 1997).

Defendants' pending dispositive Motion to Dismiss (#6) is pursuant to Rule 12(b)(6). The Court has taken a "preliminary peek" at the motion, and is convinced there is a clear possibility that it will be granted. Therefore, the Court finds a stay of discovery in this matter is appropriate pending decision on Defendants' Motion to Dismiss. Accordingly,

IT IS HEREBY ORDERED that discovery in this matter shall be **stayed** pending the District Court's order on Defendants' Motion to Dismiss (#6).

DATED this 16th day of November, 2012.

George Foley Jr.
GEORGE FOLEY, JR.
United States Magistrate Judge